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June 18, 2019

Mr. T. McElwee
MuckRock News
DEPT MR 69107
411A Highland Avenue
Somerville, MA 02144-2516

Re: FOIL Request #2019-0098

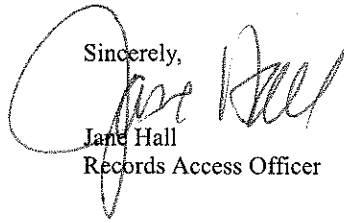
Dear Mr. T. McElwee,

This is in response to your Freedom of Information Law (FOIL) (Public Officers Law [POL], Article 6) request dated February 18, 2019, seeking a copy of contract SEN01-C150038-4010200, between the New York State Senate and LOEB & LOEB LLP, as well as any additional documentation and correspondence relating to such contract. Attached are records responsive to such request.

Public Officer Law (POL) §87(2)(g) authorizes an agency to withhold records or portions thereof that are inter-agency or intra-agency materials which are not: (i) statistical or factual tabulations or data; (ii) instructions to staff that affect the public; (iii) final agency policy or determinations; or (iv) external audits, including but not limited to audits performed by the Comptroller and the federal government. Based on the foregoing, it has been held that inter-agency or intra-agency materials that constitute expressions of opinions or recommendations may be withheld from disclosure (see *Gould v New York City Police Department*, 89 NY2d 267, 653 NYS2d 267 [1996]; *David v Lewisohn*, 142 AD2d 305, 535 NYS2d 793, lv denied 74 NY2d 610, 546 NYS2d 554 [1989]; *Polansky v Regan*, 81 AD2d 102, 440 NYS2d 356 [3d Dept 1981]). Advisory opinions of the Committee on Open Government, issued pursuant to §89(1)(b)(i), (ii) of the POL, confirm that inter-agency and intra-agency materials that are reflective of opinion, advice, recommendation and the like can be withheld (see, e.g., *Comm on Open Gov't FOIL-AO-6794*). It is our opinion that a small portion of the records retrieved constitute intra-agency and inter-agency materials that reflect pre-decisional opinions and recommendations to which access may be denied under §87(2)(g) of the POL. Therefore, such records have been redacted.

In the event that you do not agree with our determination to deny access to portions of the records retrieved in response to your request, be advised that you have the right, within thirty days of the receipt of this letter, to appeal, in writing, to: Camille Jobin-Davis, Records Appeals Officer, Office of the State Comptroller, 110 State Street, 14th Floor, Albany, New York 12236.

Sincerely,


Jane Hall
Records Access Officer